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OFFICE OF GENERAL
COUNSEL
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July 15, 2002

Mr. Kamau Philbert
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Dear Mr. Philbert:

In reference to MUR 5103, please find additional materials that may be relevant in your review of this case.


In our previous correspondence with you, we were able to associate Acacia National Mortgage with the malicious spamming practices against Susan Bitter Smith in her campaign for Congress. This includes fraudulent phone messages and also defamatory faxes sent out to voters in the Phoenix area.

Again, thank you for your time and effort in reviewing this case. If you have any questions, please call me at (602) 957-3434.

Sincerely,

Jasen C. Hutchinson
Friends of Susan Bitter Smith
5806 E. Lewis Ave.
Scottsdale, AZ 85257
(602) 957-3434

Enclosures

State of Arizona	
County of <u>Maricopa</u>	
Subscribed and sworn (or affirmed) before me this <u>15th</u> day of <u>July</u> , <u>2002</u>	
<u>Karen L. Crotty</u>	
	OFFICIAL SEAL KAREN L. CROTTY Notary Public Notary Public, State of Arizona MARICOPA COUNTY My Comm. Expires April 8 2005

CAMPAIGN FINANCE

SECRETARY OF STATE BETSEY BAYLESS

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The Campaign Finance Information published here is from the original reports filed by political committees. In some cases there may be slight differences in cumulative totals due to the ongoing reconciliation between the Secretary of State and those committees. To order copies of original reports, please call (602) 542-8683 or email elections@sos.state.az.us.

SCHEDULE A Individual Contributions

FRIENDS OF SAL DICICCIO (2002-91937)
2002

FILED ELECTRONICALLY

Date	Name+Address / Memo	Amount	To Date Amount
Records 1 to 25			
02/11/2002	VECCHIARELLI, MARY JO Occupation: RETIRED Employer:	\$110 00	\$110 00
03/01/2002	PARK, MARY Occupation: SELF EMPLOYED Employer: DATA BASE MANAGEMENT	\$110 00	\$110 00
03/01/2002	YOUHANAIE, GERALD Occupation: SELF EMPLOYED Employer: ACACIA MORTGAGE CO	\$110 00	\$110 00
03/13/2002	MOODY, HELEN Occupation: RETIRED Employer:	\$110 00	\$110 00
03/13/2002	MOODY, MONTY L. Occupation: RETIRED Employer:	\$110 00	\$110 00
03/15/2002	O'CONNOR, DANIEL Occupation: REAL ESTATE DEVELOPER Employer:	\$110 00	\$110 00
03/18/2002	DAVIS, SCOTT Occupation: PRESIDENT Employer: CHEROKEE DEVELOPMENT	\$110 00	\$110 00
03/18/2002	MCGEE, RONALD Occupation: PRESIDENT Employer: SUPERTITION CONTRACTING	\$110 00	\$110 00
03/21/2002	AARONS, BARRY Occupation: PUBLIC AFFAIRS Employer:	\$110.00	\$110.00
03/21/2002	ARENA, ELAINE Occupation: PUBLIC AFFAIRS Employer:	\$50 00	\$50.00
03/21/2002	BARNES, STAN Occupation: CONSULTANT Employer: COOPER STATE CONSULTING GROUP	\$110 00	\$110 00
03/21/2002	BASSETT, CHARLES R Occupation: GOVERNMENT RELATIONS DIRECTOR Employer: BLUE CROSS BLUE SHIELD OF AZ	\$100 00	\$100 00
03/21/2002	BRIGGS, WENDY Occupation: PUBLIC AFFAIRS Employer: STEPTOE & JOHNSON	\$110 00	\$110 00
03/21/2002	BURNETT, JANICE L Occupation: PUBLIC AFFAIRS Employer:	\$110 00	\$110 00
03/21/2002	CALKINS, IAN Occupation: PUBLIC RELATIONS Employer: COOPER STATE CONSULTING GROUP	\$110 00	\$110 00
03/21/2002	LARA, ALICE	\$110 00	\$110 00

This space on your cellular phone for rent

Your home phone and personal computer are already clogged with advertisements for products you don't want. Now, those same pitches are finding their way to your cellular phone.

It's been happening to Pablo Nevares of Tempe.

He started getting calls on his new cellphone that began with that trademark telemarketing pause. Then, the operator would ask for "Keith."

He finally figured out what happened when one of "Keith's" ex-girlfriends called. Turns out "Keith's" home phone was now in the 480 area



RICHARD RUELAS

The Arizona Republic

code. The cellphone company gave Nevares that same number, in the old 602 area code.

"It's an ongoing problem," he says. "I got one a couple weeks ago."

Telemarketers probably don't realize they're calling a cellular phone, don't realize they're breaking the law.

One of the provisions in the Telecommunications Consumer Protection Act, passed by Congress in 1991, prohibits automatically dialed calls to cellular phones.

But as home numbers and cellular numbers start looking more alike, there will be more sales calls placed to mobile phones. That is, without a change in technology or tougher telemarketing laws.

At least Nevares gets to talk to a live person.

Rodney Joffe didn't have that luxury. He was watching *Riverdance* at Gammage Auditorium when his cellular phone chirped at him.

He glanced at his display and found a pitch from Acacia National Mortgage Corp. telling him about new low rates. A few weeks later, he got an-

other, promising "gr8rates," also from Acacia Mortgage.

I remember getting the same text messages Joffe got on my company cellphone. One came in while I was driving. The messages were a surprise because I had no idea I had text messaging service.

But I figured it was an annoyance cellphone users would be forced to live with.

Joffe, however, decided to fight. Joffe, who is in direct marketing himself, didn't want to see cellphone solicitations become as voluminous as e-mail pitches.

He went to South Phoenix Justice Court, asking for \$500 for each text message, the amount set by Congress for violations of the law.

Acacia countersued Joffe for \$55,000, saying his lawsuit caused the company "mental strain" and "financial losses."

That automatically moved the case to Maricopa County Superior Court.

Acacia asked Judge Gary Donahoe to dismiss the case, saying the text messages weren't technically phone

calls. But in March, Donahoe made it clear he wasn't buying that argument. "By doing advertising in this manner, (Acacia) shifted some of the cost of its advertising to those receiving the telephone calls," he wrote in a ruling. "The court is of the opinion that such conduct violates the Telephone Consumer Protection Act."

In May, Joffe decided to up the stakes, filing a class-action lawsuit on behalf of all 100,000 people who received the unsolicited text message on their cell phone. If his lawsuit goes forward, it could mean damages of \$50 million.

"A class action is going to get the attention of any company," Joffe says. Looks like it's already worked.

In a motion filed a few weeks ago, Acacia's lawyers included word of an internal memo, written by the company's president, that ordered employees to stop using cellular phones to pitch mortgage rates. Message sent.

Reach Ruelas at richard.ruelas@arizona
republic.com or (602) 444-8473.

Political telemarketing smacks of hypocrisy

What gives with Sal DiCiccio? He says he is against unwanted politicians' telemarketing calls. He says he will spearhead an effort to make this practice illegal. And yet, at the same time he is sending out his own telemarketing calls to promote his candidacy for secretary of state. I know, because I received one from his computer on June 30.

I remember Clinton and Gore advocating campaign finance reform, all the while taking full advantage of the practices they hoped to make illegal. This is so hypocritical!

I've met and worked with a lot of politicians in my life of public service, and DiCiccio is falling into the same trap of "I'll keep doing it, until we can make it illegal" that others have embraced.

I signed Sal's petition, but I will be voting for Jan Brewer for secretary of state, whose word

we can trust.

Gary Richardson
(Former state senator)
Tempe

How to reach us



Mail to: Tribune
Letters to the Editor,
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Call Bob Schuster
at (480) 898-6507,
or cartoonist Mike
Ritter at (480)
898-6425.

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